

MT LEGISLATIVE HISTORY

Chapter 195 1987

Bill H 196 S _____

Original bill & hist. ✓c

H. Committee on Busⁿl labor

S. Committee on Pub. Health, W^h S

Hearing Date(s) _____ c

Hearing Date(s) _____ c

_____ c

_____ c

1/21 ✓c

3/9 ✓c

_____ c

_____ c

Date Out

1/26 ✓c

3/9 ✓c

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

HOUSE FINAL STATUS

3/06	3RD READING PASSED	89	7
	TRANSMITTED TO SENATE		
3/09	REFERRED TO TAXATION		
3/17	HEARING		
3/19	COMMITTEE REPORT--BILL CONCURRED		
3/23	2ND READING CONCURRED	48	0
3/25	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
3/28	SIGNED BY SPEAKER		
3/30	SIGNED BY PRESIDENT		
	CHAPTER NUMBER 342		
	SECTIONS 2, 3 -- EFFECTIVE DATE: 3/30/87		
	SECTION 1 -- EFFECTIVE DATE: 1/01/89		
	CONTINGENT ON VOTER APPROVAL		

HB 194 INTRODUCED BY MILES
ABOLISH REQUIREMENT FOR APPROVAL BY DEPARTMENT OF
HEALTH & ENVIRONMENTAL SCIENCES OF CERTAIN
ALCOHOLIC BEVERAGES SALES

1/14	INTRODUCED		
1/14	REFERRED TO BUSINESS & LABOR		
1/21	HEARING		
1/21	COMMITTEE REPORT--BILL PASSED AS AMENDED		
1/23	2ND READING PASSED	96	0
1/24	3RD READING PASSED	93	1
	TRANSMITTED TO SENATE		
1/26	REFERRED TO BUSINESS & INDUSTRY		
2/06	HEARING		
2/07	COMMITTEE REPORT--BILL CONCURRED		
2/11	2ND READING CONCURRED	48	0
2/13	3RD READING CONCURRED	50	0
	RETURNED TO HOUSE		
2/18	SIGNED BY SPEAKER		
2/18	SIGNED BY PRESIDENT		
2/18	TRANSMITTED TO GOVERNOR		
2/20	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 34 EFFECTIVE DATE: 10/01/87		

HB 195 INTRODUCED BY MILES
REDEFINE WORD "PRINCIPAL" IN LAWS REGULATING
LOBBYISTS
BY REQUEST OF COMMISSIONER OF POLITICAL PRACTICES

1/14	INTRODUCED		
1/14	REFERRED TO STATE ADMINISTRATION		
1/20	HEARING		
	FAILED TO MEET TRANSMITTAL DEADLINE		

HB 196 INTRODUCED BY MILES, ET AL.
EXTENDING JURISDICTION OF MEDICAL-LEGAL PANEL TO
DENTISTS

1/14	INTRODUCED		
1/14	REFERRED TO BUSINESS & LABOR		
1/21	HEARING		
1/26	COMMITTEE REPORT--BILL PASSED AS AMENDED		
1/28	2ND READING PASSED	98	0
1/29	3RD READING PASSED	94	1

HOUSE FINAL STATUS

TRANSMITTED TO SENATE
 1/30 REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY
 3/09 HEARING
 3/10 COMMITTEE REPORT--BILL CONCURRED
 3/13 2ND READING CONCURRED 50 0
 3/16 3RD READING CONCURRED 50 0

 RETURNED TO HOUSE
 3/19 SIGNED BY SPEAKER
 3/19 SIGNED BY PRESIDENT

 3/20 TRANSMITTED TO GOVERNOR
 3/24 SIGNED BY GOVERNOR
 CHAPTER NUMBER 195 EFFECTIVE DATE: 10/01/87

HB 197 INTRODUCED BY GRADY
 OPERATING MOTOR VEHICLE WITHOUT LIABILITY INSURANCE
 -- INCREASE PENALTIES

1/14 INTRODUCED
 1/14 REFERRED TO JUDICIARY
 1/20 HEARING
 1/23 COMMITTEE REPORT--BILL PASSED AS AMENDED
 1/27 2ND READING PASSED AS AMENDED 88 11
 1/29 3RD READING PASSED 86 10

TRANSMITTED TO SENATE
 1/30 REFERRED TO JUDICIARY
 3/06 HEARING
 3/07 COMMITTEE REPORT--BILL CONCURRED
 3/12 2ND READING CONCURRED 49 0
 3/14 3RD READING CONCURRED 43 7

RETURNED TO HOUSE
 3/17 SIGNED BY SPEAKER
 3/17 SIGNED BY PRESIDENT

3/18 TRANSMITTED TO GOVERNOR
 3/22 SIGNED BY GOVERNOR
 CHAPTER NUMBER 155 EFFECTIVE DATE: 10/01/87

HB 198 INTRODUCED BY ROTH
 REQUIRE TEACHERS/SPECIALISTS WITH COOPERATIVES TO
 REGISTER CERTIFICATES
 BY REQUEST OF OFFICE OF PUBLIC INSTRUCTION

1/14 INTRODUCED
 1/14 REFERRED TO EDUCATION & CULTURAL RESOURCES
 1/28 HEARING
 1/28 COMMITTEE REPORT--BILL PASSED
 1/30 2ND READING PASSED 89 5
 1/31 3RD READING PASSED 94 0

TRANSMITTED TO SENATE
 2/02 REFERRED TO EDUCATION & CULTURAL RESOURCES
 3/18 HEARING
 3/19 COMMITTEE REPORT--BILL CONCURRED
 3/23 2ND READING CONCURRED 48 0
 3/25 3RD READING CONCURRED 49 0

RETURNED TO HOUSE
 3/28 SIGNED BY SPEAKER
 3/30 SIGNED BY PRESIDENT

STATUS SHEET

50th LEGISLATIVE SESSION

BUSINESS AND LABOR

COMMITTEE

BILL NUMBER	ENTERED COM. DATE	DATE CON- SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON- CURRED IN DATE	BE NOT CON- CURRED IN DATE	BE CON- CURRED IN AMENDED DATE	BE NOT CONCURRE IN AS AMENDED DATE
189	1/14/87	1/23/87	1/23/87	1/23/87							
191	1/14/87	1/23/87	1/23/87		1/23/87						
194	1/14/87	1/21/87	1/21/87			1/21/87					
196	1/14/87	1/21/87	1/26/87			1/26/87					
199	1/14/87	1/22/87	1/22/87		1/22/87						
206	1/14/87	1/22/87	1/22/87	1/22/87		second reading 2/2/87					
218	1/15/87	1/26/87	1/26/87	1/26/87							
228	1/15/87	1/26/87	2/3/87			2/3/87					
231	1/16/87	1/27/87	1/27/87	1/27/87							
232	1/16/87	1/26/87	2/6/87			2/6/87					
240	1/16/87	referred to another committee									
242	1/16/87	1/27/87	1/27/87			1/27/87					
249	1/16/87	1/28/87	2/4/87			2/4/87					
254	1/19/87	1/27/87	1/27/87			1/27/87					
257	1/19/87	1/28/87	1/28/87	1/28/87							

HOUSE BILL NO. 196

INTRODUCED BY MILES, GOULD, DAILY, BULGER

IN THE HOUSE

JANUARY 14, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & LABOR.
JANUARY 26, 1987	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 27, 1987	PRINTING REPORT.
JANUARY 28, 1987	SECOND READING, DO PASS.
JANUARY 29, 1987	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 94; NOES, 1.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 30, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY.
MARCH 10, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 13, 1987	SECOND READING, CONCURRED IN.
MARCH 16, 1987	THIRD READING, CONCURRED IN. AYES, 50; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 17, 1987	RECEIVED FROM SENATE.
	SENT TO ENROLLING.

1 HB (BILL NO. HB 196)
 2 INTRODUCED BY Mike Stahl
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXTEND THE
 5 JURISDICTION OF THE MONTANA MEDICAL LEGAL PANEL TO CLAIMS
 6 AGAINST DENTISTS; AMENDING SECTIONS 27-6-103, 27-6-206,
 7 27-6-302, 27-6-306, AND 27-6-401, MCA; AND PROVIDING AN
 8 APPLICABILITY DATE."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 27-6-103, MCA, is amended to read:
 12 "27-6-103. Definitions. As used in this chapter, the
 13 following definitions apply:

14 (1) "Dentist" means:
 15 (a) for purposes of the assessment of the annual
 16 surcharge, an individual licensed to practice dentistry
 17 under the provisions of Title 37, chapter 4, who at the time
 18 of the assessment:

19 (i) has as his principal residence or place of dental
 20 practice the state of Montana;

21 (ii) is not employed full-time by any federal
 22 governmental agency or entity; and

23 (iii) is not fully retired from the practice of
 24 dentistry; or

25 (b) for all other purposes, a person licensed to

1 practice dentistry under the provisions of Title 37, chapter
 2 4, who at the time of the occurrence of the incident giving
 3 rise to the claim:

4 (i) was an individual who had as his principal
 5 residence or place of dental practice the state of Montana
 6 and was not employed full-time by any federal governmental
 7 agency or entity; or

8 (ii) was a professional service corporation,
 9 partnership, or other business entity organized under the
 10 laws of any state to render dental services and whose
 11 shareholders, partners, or owners were individual dentists
 12 licensed to practice dentistry under the provisions of Title
 13 37, chapter 4.

14 (2) "Health care facility" means a facility (other
 15 than a university, college, or governmental infirmary)
 16 licensed as a health care facility under Title 50, chapter
 17 5.

18 (3) "Health care provider" means a physician, a
 19 dentist, or a health care facility.

20 (4) "Hospital" means a hospital as defined in
 21 50-5-101.

22 (5) "Malpractice claim" means any claim or
 23 potential claim of a claimant against a health care provider
 24 for medical or dental treatment, lack of medical or dental
 25 treatment, or other alleged departure from accepted

standards of health care which proximately results in damage to the claimant, whether the claimant's claim or potential claim sounds in tort or contract, and includes but is not limited to allegations of battery or wrongful death.

{5}{6} "Panel" means the Montana medical legal panel provided for in 27-6-104.

{6}{7} "Physician" means:

(a) for purposes of the assessment of the annual surcharge, an individual licensed to practice medicine under the provisions of Title 37, chapter 3, who at the time of the assessment:

(i) has as his principal residence or place of medical practice the state of Montana;

(ii) is not employed full-time by any federal governmental agency or entity; and

(iii) is not fully retired from the practice of medicine; or

(b) for all other purposes, a person licensed to practice medicine under the provisions of Title 37, chapter 3, who at the time of the occurrence of the incident giving rise to the claim:

(i) was an individual who had as his principal residence or place of medical practice the state of Montana and was not employed full-time by any federal governmental agency or entity; or

(ii) was a professional service corporation, partnership, or other business entity organized under the laws of any state to render medical services, and whose shareholders, partners, or owners were individual physicians licensed to practice medicine under the provisions of Title 37, chapter 3."

Section 2. Section 27-6-206, MCA, is amended to read:

"27-6-206. Funding. (1) There is created a pretrial review fund to be administered by the director exclusively for the purposes stated in this chapter. The fund and any income from it shall be held in trust, deposited in an account, and invested and reinvested by the director with the prior approval of the director of the Montana medical association. The fund may not become a part of or revert to the general fund of this state but shall be open to auditing by the legislative auditor.

(2) To create the fund, an annual surcharge shall be levied on all health care providers. The amount of the assessment must be annually set by the director and must be apportioned among physicians, dentists, hospitals, and other health care providers by group. As to the group of all physicians, the group of all dentists, the group of all hospitals, and the group of all other health care facilities, the amount of the assessment must be proportionate to the respective percentage of total health

1 care providers brought before the panel that each group
 2 constitutes. The total number and group of health care
 3 providers brought before the panel must be determined from
 4 the annual report of the panel for the years preceding the
 5 year of assessment, as to all claims closed since April 19,
 6 1977. The amount of the assessment for the group of all
 7 hospitals must be proportionately assessed against each
 8 hospital on the basis of each hospital's total number of
 9 licensed hospital beds, whether used or not, as reflected in
 10 the most recent compilation of the department of health and
 11 environmental sciences. The amount of the assessment for the
 12 group of all physicians must be equally assessed against all
 13 physicians. The amount of the assessment for the group of
 14 all dentists must be equally assessed against all dentists.
 15 The amount of the assessment for the group of all other
 16 health care facilities must be equally assessed against all
 17 other health care facilities. Surplus funds, if any, over
 18 and above the amount required for the annual administration
 19 of the chapter shall be retained by the director and used to
 20 finance the administration of this chapter in succeeding
 21 years, in which event the director shall reduce the annual
 22 assessment in subsequent years, commensurate with the proper
 23 administration of this chapter.

24 (3) The annual surcharge shall be paid on or before
 25 the date physicians' and dentists' annual registration or

1 renewal fees are due under 37-3-313 and 37-4-307. All unpaid
 2 assessments bear a late charge fee equal to the judgment
 3 rate of interest. The late charge fee is part of the annual
 4 surcharge. The director has the same powers and duties in
 5 connection with the collection of and failure to pay the
 6 annual surcharge as the department of commerce has under
 7 37-3-313 and 37-4-307 in connection with physicians' and
 8 dentists' annual registration or renewal fees."

9 Section 3. Section 27-6-302, MCA, is amended to read:
 10 "27-6-302. Contents of application -- waiver of
 11 confidentiality of medical and dental records. The
 12 application shall contain the following:

13 (1) a statement in reasonable detail of the elements
 14 of the health care provider's conduct which are believed to
 15 constitute a malpractice claim, the dates the conduct
 16 occurred, and the names and addresses of all physicians,
 17 dentists, and hospitals having contact with the claimant and
 18 all witnesses;

19 (2) a statement authorizing the panel to obtain access
 20 to all medical, dental, and hospital records and information
 21 pertaining to the claim and, for the purposes of its
 22 consideration of this matter only, waiving any privilege as
 23 to the contents of those records. Nothing in that statement
 24 may in any way be construed as waiving that privilege for
 25 any other purpose or in any other context, in or out of

1 court."

2 Section 4. Section 27-6-306, MCA, is amended to read:

3 "27-6-306. Health care provider's appearance and
4 answer -- waiver of confidentiality of records. (1) If a
5 health care provider involved chooses to retain legal
6 counsel, his attorney shall informally enter his appearance
7 with the director.

8 (2) The health care provider shall answer the
9 application for review and shall submit a statement
10 authorizing the panel to inspect all medical, dental, and
11 hospital records and information pertaining to the
12 application and, for the purposes of such inspection only,
13 waiving any privilege as to the contents of those records.
14 Nothing in the statement waives that privilege for any other
15 purpose."

16 Section 5. Section 27-6-401, MCA, is amended to read:

17 "27-6-401. Composition of panel. (1) Those eligible to
18 sit on the panel are health care providers licensed pursuant
19 to Montana law and residing in Montana and the members of
20 the state bar of Montana. Six panel members shall sit in
21 review of each case. Three panel members who are physicians
22 and three panel members who are attorneys shall sit in
23 review of each case in which the claim is heard only against
24 one or more physicians. Three panel members who are dentists
25 and three panel members who are attorneys shall sit in

1 review of each case in which the claim is heard only against
2 one or more dentists. If the claim is heard only against one
3 or more health care facilities, two of the panel members
4 must be administrators of the same type of health care
5 facility or facilities, one panel member must be a
6 physician, and three panel members must be attorneys.

7 (2) In all other cases, two of the panel members must
8 be physicians, one panel member must be an administrator of
9 the same type of health care facility, and three panel
10 members must be attorneys, except that when a claim is heard
11 against a dentist, a dentist must be substituted for one of
12 the physicians on the panel."

13 NEW SECTION. Section 6. Applicability. This act
14 applies to malpractice claims occurring on or after the
15 effective date of this act.

-End-

BUSINESS & LABOR COMMITTEE

50TH LEGISLATIVE SESSION

1987

Committee Members

District

Rep. Les Kitselman, Chairman	95
Rep. Fred Thomas, Vice Chairman	62
Rep. Bob Bachnini	14
Rep. Ray Brandewie	49
Rep. Jan Brown	46
Rep. Ben Cohen	3
Rep. Jerry Driscoll	92
Rep. William Glaserl	98
Rep. Larry Grinde	30
Rep. Stella Jean Hansen	57
Rep. Tom Jones	4
Rep. Lloyd McCormick	38
Rep. Gerald Nisbet	35
Rep. Bob Pavlovich	70
Rep. Bruce Simon	91
Rep. Clyde Smith	5
Rep. Charles Swysgood	73
Rep. Norm Wallin	78

Secretary

Elsie Sebens-Armstrong

Staff

Paul Verdon

MINUTES OF THE MEETING
BUSINESS AND LABOR COMMITTEE
50TH LEGISLATIVE SESSION

January 21, 1987

The meeting of the Business and Labor Committee was called to order by Chairman Les Kitselman on January 21, 1987 at 8:00 a.m. in Room 312-F of the State Capitol.

ROLL CALL: All members were present.

HOUSE BILL NO. 179 - Prohibiting Acquisition of Insured Banks by Certain Companies sponsored by Rep. Tom Jones, House District No. 4, Kalispell. Rep. Jones stated that the purpose of the bill is to prohibit bank holding companies and commercial companies from acquiring half-banks in Montana, banks that do not offer both demand deposits and commercial loans. He commented that these are controversial institutions that are referred in the banking industry as nonbank banks, and are undermining the federal laws that have historically governed the banking industry. He said because the half-banks do not meet the definition of a bank as an institution that offers both demand deposits and commercial loans, they are able to escape the federal regulations through the definition loopholes.

PROPONENTS

Roger Tippy, representing the Montana Independent Bankers Association. Mr. Tippy stated that the purpose of the bill is to identify the "nonbank bank", or "half-bank" as it is called in the industry, and specify that neither a bank holding company nor any other company could own, control, and operate such half-banks. He said that Congress has tried to seal the loophole but have not succeeded, and the issue is whether the states will keep their regulatory powers over banking or lose them with a lax attitude. Mr. Tippy submitted a rewritten version of the bill that would amend the original version that would prohibit the holding company from owning any insured bank because that holding bank does not have checking accounts, etc., itself; the amendment would avoid that impact. Exhibit No. 1.

Ron Ahlers, Executive Vice President, First Security Bank, Bozeman, and Vice President of the Montana Independent Bankers Association. Mr. Ahler cited four reasons why the non-bank bank loophole is a bad public policy. He said that it breaches the separation between banking and commerce set forth in the Glass-Steagall and Bank Holding Company Acts; and the loophole destroys the limitations on interstate deposit-taking and bank ownership embodied in the McFadden

estate company, would they be prohibited from using their "discovery card". Mr. Tippy responded that the "discovery card" will not be affected by the bill, but once they start moving into checking accounts, they should comply with the bank holding company act and would be on the same level as the banks.

CLOSING

Rep. Jones made no further comments.

HOUSE BILL NO. 196 - Extending Jurisdiction of Medical-Legal Panel to Dentists sponsored by Rep. Joan Miles, House District No. 45, Helena. Rep. Miles stated that this was a proposal to include dentists under the existing Medical Legal Panel Act which was enacted about 10 years ago. She said the panel serves as a pretrial litigation panel when there are law suits involving malpractice claims against doctors or health care facilities, and the dentists' portion will be self-funded by the dentists.

PROPONENTS

Dr. John Lohman, Secretary Treasurer and Director of the Montana Dental Association, Butte. Dr. Lohman stated that they surveyed the 454 members of the Montana Dental Association and they are requesting inclusion under the Medical Legal Panel. He said they do not expect the inclusion under the Panel to lower their insurance premiums but they see it as a positive step toward keeping claims out of the court system. Exhibit No. 1.

Roger Tippy, representing the Montana Dental Association. Mr. Tippy stated that the Montana Medical Association had reviewed the bill and had suggested some amendments. Exhibit No. 2.

Jerry Loendorf, representing the Montana Medical Association. Mr. Loendorf stated that in 1977 the Montana Medical Association offered coverage under this act to health care facilities and professionals that wanted to be covered. He commented that the current law requires the panel administrator to help the claimant find an expert physician to consult with him on medical claims and the law should further provide that the administrator assist that person to find a dentist in case of dental claims. He said he was submitting amendments to accomplish this and was also submitting an amendment that would provide for dental records to be distributed to the parties involved.

OPPONENTS

None.

QUESTIONS

None.

CLOSING

Rep. Miles stated that this bill would help the dentists that are involved. She stated that regarding the statute that gave the Medical Legal Panel the authority to adopt rules of procedure that they would follow and not being a state agency, she wanted the researcher to check this to see if it was necessary to include it in the bill.

HOUSE BILL NO. 194 - Abolish State Department of Health and Environmental Sciences Approval of Certain Alcoholic Beverages Sales sponsored by Rep. Joan Miles of House District No. 45, Helena. Rep. Miles stated that this bill is a minor change in the rules regarding catering endorsement and temporary liquor licenses. She commented the intent of the bill is to reduce the paper work and procedures involved for the applicants. She stated that technically the law states that the applications must be signed by the State DHES and it does not mention the local boards of health or their designated representatives. She said it is her estimation that the local law enforcement agencies should be aware of an event where alcoholic beverages will be served, and the approval of the local health department is needed when food services are involved; but no purpose is served by having the State Department of Health approving the applications.

PROPONENTS

Tom Mulholland, Liquor Division, Department of Revenue. Mr. Mulholland stated they did not have a position on the bill, but they supported it and would be available to answer questions.

James Peterson, Chief of the Food and Consumer Safety Bureau, Department of Health and Environmental Sciences. Mr. Peterson stated that a review of the liquor catering practices and procedures over the past years indicates that these activities have few risks to the health and safety to the public. He believes there would be no significant impact on public health and safety should the requirement for the State Department of Health and Environmental approval of catered liquor activities be eliminated. Exhibit No. 1.

ACTION ON HOUSE BILL NO. 194

Rep. Pavlovich moved that House Bill No. 194 DO PASS. Rep. Driscoll moved an amendment to strike section 3, lines 12 through 16 on page 6. The motion carried with Rep. Cohen opposed.

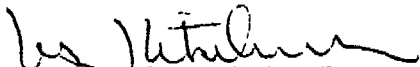
Rep. Pavlovich moved that House Bill No. 194 DO PASS AS AMENDED. The motion carried with Rep. Cohen opposed.

ACTION ON HOUSE BILL NO. 196

Chairman Kitselman referred House Bill No. 196 to a subcommittee composed of Rep. Wallin, Rep. Brown, and Rep. Grinde with Rep. Wallin as chairman.

ADJOURNMENT

The meeting adjourned at 10:30 a.m.



REP. LES KITSELMAN, Chairman

DAILY ROLL CALL

BUSINESS & LABOR

COMMITTEE

59th LEGISLATIVE SESSION -- 1987

Date January 21, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. LES KITSELMAN, CHAIRMAN	✓		
REP. FRED THOMAS, VICE-CHAIRMAN	✓		
REP. BOB BACHINI	✓		
REP. RAY BRANDEWIE	✓		
REP. JAN BROWN	✓		
REP. BEN COHEN	✓		
REP. JERRY DRISCOLL	✓		
REP. WILLIAM GLASER	✓		
REP. LARRY GRINDE	✓		
REP. STELLA JEAN HANSEN	✓		
REP. TOM JONES	✓		
REP. LLOYD MCCORMICK	✓		
REP. GERALD NISBET	✓		
REP. BOB PAVLOVICH	✓		
REP. BRUCE SIMON	✓		
REP. CLYDE SMITH	✓		
REP. CHARLES SWYSGOOD	✓		
REP. NORM WALLIN	✓		

Montana Dental Association

EXHIBIT L
DATE 2/1/87
HB 196

P. O. Box 513 Butte, Montana 59703 Phone (406) 782-9333

Constituent: AMERICAN DENTAL ASSOCIATION

January 20, 1987

TO: House Business and Labor Committee
Montana Legislature

FROM: John W. Lohman, D.D.S., Secretary-Treasurer
Montana Dental Association

Dear Mr. Chairman and Committee Members:

I am Dr. John Lohman. I am a dentist from Butte and am the Secretary-Treasurer and Director of the Montana Dental Association.

I am here to represent the officers and members of the Montana Dental Association and speak in support of HB 196. We have followed closely the work of the Montana Medical-Legal Panel since its creation in 1977. Having surveyed our 454 members we are requesting inclusion under the panel as a result of unanimous acceptance by our membership.

We do not expect our inclusion under the panel to lower our insurance premiums, but see it as a positive step toward keeping claims out of the court system.

We respectfully request passage of HB 196.

Officers — 1986-1987

President
Donald O. Nordstrom, D.D.S.
3817 Stephens
Missoula, MT 59801

President Elect
Leonard L. Dailey, D.D.S.
2703 11th Avenue No.
Billings, MT 59101

1st Vice-President
Lorence R. Flynn, D.D.S.
414 Hilltop Ave.
Kalispell, MT 59901

2nd Vice-President
Roger L. Kiesling, D.D.S.
121 No. Last Chance Gulch
Helena, MT 59601

Secretary-Treasurer
John W. Lohman, D.D.S.
P.O. Box 513
Butte, MT 59703

EXHIBIT 5
DATE 1/21/87
H3 196

ROGER TIPPY

Attorney At Law
BOX 543
CAPITOL 1 CENTER
208 N. MONTANA
HELENA, MONTANA 59624

(406) 442-4451

January 23, 1987

Rep. Norm Wallin
Business & Labor Committee
House of Representatives
State Capitol
Helena, MT 59620

Re: House Bill 196

Dear Rep. Wallin:

I visited with the Montana Medical Association about the case of state line practitioners, doctors or dentists, and whether they should be under or be able to come under the Medical Legal Panel.

The short answer is that the language of the law and bill - as is - will handle the situation if the doctor or dentist lists his Montana office address, e.g. a one-day-a-week office in West Yellowstone, with his Montana licensing board.

The doctor or dentist can claim the coverage of the Panel Act by virtue of the definition's reference to a physician/dentist who maintains his principal residence or his place of medical/dental practice. It doesn't say "principal" place of practice, just place of practice.

The MMA's position is that the present language has been worked out over the years and covers the situation most effectively. If a North Dakota or Idaho doctor or dentist did not want to pay the annual fee for the Medical Legal Panel, the MMA would rather leave him or her out than try to collect the fee. The North Dakota or Idaho practitioner who wants to come under the panel and pay its fee can do so simply by using the address of the part-time Montana office.

In summary, no further amendment of HB196 is needed to cover the situation you identified.

Sincerely,



ROGER TIPPY

cc: Jan Brown
Larry Grinde

BUSINESS AND LABOR

BILL NO. HB 196

SPONSOR Rep. Joan Miles

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

CS-33

MINUTES OF THE MEETING
BUSINESS AND LABOR COMMITTEE
50TH LEGISLATIVE SESSION

January 26, 1987

The meeting of the Business and Labor Committee was called to order by Chairman Les Kitselman on January 26, 1987 at 10:00 a.m. in Room 312-F of the State Capitol.

ROLL CALL: All members were present with the exception of Rep. Pavlovich who was excused.

HOUSE BILL NO. 228 - Remove Automatic Stay of Insurance Commissioner's Order Upon Appeal, sponsored by Rep. Charles Swysgood, House District No. 73, Dillon. Rep. Swysgood stated this bill was at the request of the State Auditor and stated that an order by the Insurance Commissioner will not be stayed unless the Insurance Commissioner and an appellant agree to a stay or after hearing arguments from the appellant and the Commissioner, the District Court determines that the Commissioner's order should be stayed pending its judgement. He commented that if the bill passed the appellant could present arguments as to why the appeal order should be stayed and the Commissioner could present arguments as to why the order should not be stayed.

Rep. Swysgood stated that the bill is not retroactive because it does not include an applicability section; the effective date would be October 1, 1987. He said this bill would not effect a person's right to appeal an order by the Insurance Commissioner, it simply provides that an order by the Commissioner is not automatically stayed just because it was appealed.

PROPOSERS

Andrea Bennett, State Auditor and Commissioner of Insurance. Ms. Bennett stated that this bill is proposed because in the last two years of her administration in reviewing the laws she found a great travesty in this particular issue that the bill addresses. She stated that with an automatic stay provision the administrative procedure hearing process is virtually ineffective. She commented that after the Department has gone through full administrative hearings, the violator can negate any effort they have taken including action and fines by simply filing a piece of paper and can continue to sell insurance. Exhibit No. 1.

Roger McGlenn, representing the Independent Insurance Agents Association of Montana. Mr. McGlenn stated that with the protection of the hearing process in the statute, they

CLOSING

In closing Rep. Brandewie read a letter from the Flathead County Attorney in Kalispell who supported the bill. Exhibit No. 1.

EXECUTIVE ACTION - January 26, 1987 - 10:40 a.m.

ACTION ON HOUSE BILL NO. 196

Rep. Wallin moved that House Bill No. 196 DO PASS.

Rep. Wallin moved the amendments. (See Standing Committee Report). The motion carried unanimously.

Rep. Wallin moved that House Bill No. 196 DO PASS AS AMENDED. The motion carried unanimously.

ACTION ON HOUSE BILL NO. 228

Rep. Swysgood moved that House Bill No. 228 DO PASS.

Discussion

Chairman Kitselman stated that his concerns with the bill was that it gives away rights of the individual to have due process. He cited a situation where an individual had a problem and his right to make a living was denied and it was later determined that the State Auditor's Office had made an error.

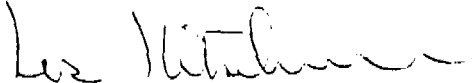
Rep. Glaser stated that in this nation a person is innocent until proven guilty.

Rep. Swysgood withdrew his motion of DO PASS.

Chairman Kitselman referred House Bill No. 228 to a subcommittee composed of Rep. Thomas, Rep. Swysgood, and Rep. Hanson, with Rep. Thomas as chairman.

ADJOURNMENT

The meeting adjourned at 11:10 a.m.



REP. LES KITSELMAN, Chairman

DAILY ROLL CALL
BUSINESS & LABOR COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date January 26, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. LES KITSELMAN, CHAIRMAN	✓		
REP. FRED THOMAS, VICE-CHAIRMAN	✓		
REP. BOB BACHINI	✓		
REP. RAY BRANDEWIE	✓		
REP. JAN BROWN	✓		
REP. BEN COHEN	✓		
REP. JERRY DRISCOLL	✓		
REP. WILLIAM GLASER	✓		
REP. LARRY GRINDE	✓		
REP. STELLA JEAN HANSEN	✓		
REP. TOM JONES	✓		
REP. LLOYD MCCORMICK	✓		
REP. GERALD NISBET	✓		
REP. BOB PAVLOVICH			✓
REP. BRUCE SIMON	✓		
REP. CLYDE SMITH	✓		
REP. CHARLES SWYSGOOD	✓		
REP. NORM WALLIN	✓		

STANDING COMMITTEE REPORT

January 26

19 87

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report HOUSE BILL NO. 196

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

REP. LES KITSELMAN

Chairman

EXTENDING JURISDICTION OF MEDICAL-LEGAL PANEL TO DENTISTS

AMENDMENTS AS FOLLOWS:

1) Title, line 7

Following: "27-6-306"

Insert: "THROUGH 27-6-308"

2) Page 7, line 16

Following: line 15

Insert: "Section 5. Section 27-6-307, MCA, is amended to read:
"27-6-307. Assistance to claimant in obtaining expert consultation.
The panel director shall cooperate fully with the claimant in
retaining, to consult with the claimant, upon payment of a reasonable
fee by the claimant in claims involving:

(1) a physician, a physician qualified in the field of medicine
involved, who will consult with the claimant upon payment of a
reasonable fee by the claimant; or

(2) a dentist, a dentist qualified in the field of dentistry
involved.

Section 6. Section 27-6-308, MCA, is amended to read: "27-6-308.
Director to furnish panel members with documents. At least 10 days
prior to the hearing, the director shall furnish to each panel
member copies of all claims, briefs, medical or dental records, and
other documents the director considers necessary."

Renumber: subsequent sections

FIRST

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MONTANA STATE SENATE

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

50th LEGISLATURE

COMMITTEE MEMBERS: Senator Dorothy Eck, Chairman
 Senator Tom Hager, V. Chairman
 Senator Matt Himsl
 Senator Judy Jacobson
 Senator Harry H. McLane
 Senator Darryl Meyer
 Senator Bill Norman
 Senator Tom Rassmussen
 Senator Eleanor Vaughn
 Senator Bob Williams

STAFF RESEARCHER: Karen Renne

COMMITTEE SECRETARY: Ellen Nehring

BOOK: 1 of 2

INCLUSIVE DATES: January 7, 1987 through February 20, 1987

HOUSE BILL NO. 196

INTRODUCED BY MILES, GOULD, DALY, BULGER

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXTEND THE JURISDICTION OF THE MONTANA MEDICAL LEGAL PANEL TO CLAIMS AGAINST DENTISTS; AMENDING SECTIONS 27-6-103, 27-6-206, 27-6-302, 27-6-306 THROUGH 27-6-308, AND 27-6-401, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 27-6-103, MCA, is amended to read:

"27-6-103. Definitions. As used in this chapter, the following definitions apply:

(1) "Dentist" means:

(a) for purposes of the assessment of the annual surcharge, an individual licensed to practice dentistry under the provisions of Title 37, chapter 4, who at the time of the assessment:

(i) has as his principal residence or place of dental practice the state of Montana;

(ii) is not employed full-time by any federal governmental agency or entity; and

(iii) is not fully retired from the practice of dentistry; or

(b) for all other purposes, a person licensed to

practice dentistry under the provisions of Title 37, chapter 4, who at the time of the occurrence of the incident giving rise to the claim:

(i) was an individual who had as his principal residence or place of dental practice the state of Montana and was not employed full-time by any federal governmental agency or entity; or

(ii) was a professional service corporation, partnership, or other business entity organized under the laws of any state to render dental services and whose shareholders, partners, or owners were individual dentists licensed to practice dentistry under the provisions of Title 37, chapter 4.

(1)(2) "Health care facility" means a facility (other than a university, college, or governmental infirmary) licensed as a health care facility under Title 50, chapter 5.

(2)(3) "Health care provider" means a physician, a dentist, or a health care facility.

(3)(4) "Hospital" means a hospital as defined in 50-5-101.

(4)(5) "Malpractice claim" means any claim or potential claim of a claimant against a health care provider for medical or dental treatment, lack of medical or dental treatment, or other alleged departure from accepted

THIRD READING

standards of health care which proximately results in damage to the claimant, whether the claimant's claim or potential claim sounds in tort or contract, and includes but is not limited to allegations of battery or wrongful death.

(5)(6) "Panel" means the Montana medical legal panel provided for in 27-6-104.

(6)(7) "Physician" means:

(a) for purposes of the assessment of the annual surcharge, an individual licensed to practice medicine under the provisions of Title 37, chapter 3, who at the time of the assessment:

(i) has as his principal residence or place of medical practice the state of Montana;

(ii) is not employed full-time by any federal governmental agency or entity; and

(iii) is not fully retired from the practice of medicine; or

(b) for all other purposes, a person licensed to practice medicine under the provisions of Title 37, chapter 3, who at the time of the occurrence of the incident giving rise to the claim:

(i) was an individual who had as his principal residence or place of medical practice the state of Montana and was not employed full-time by any federal governmental agency or entity; or

(ii) was a professional service corporation, partnership, or other business entity organized under the laws of any state to render medical services, and whose shareholders, partners, or owners were individual physicians licensed to practice medicine under the provisions of Title 37, chapter 3."

Section 2. Section 27-6-206, MCA, is amended to read:

"27-6-206. Funding. (1) There is created a pretrial review fund to be administered by the director exclusively for the purposes stated in this chapter. The fund and any income from it shall be held in trust, deposited in an account, and invested and reinvested by the director with the prior approval of the director of the Montana medical association. The fund may not become a part of or revert to the general fund of this state but shall be open to auditing by the legislative auditor.

(2) To create the fund, an annual surcharge shall be levied on all health care providers. The amount of the assessment must be annually set by the director and must be apportioned among physicians, dentists, hospitals, and other health care providers by group. As to the group of all physicians, the group of all dentists, the group of all hospitals, and the group of all other health care facilities, the amount of the assessment must be proportionate to the respective percentage of total health

1 care providers brought before the panel that each group
 2 constitutes. The total number and group of health care
 3 providers brought before the panel must be determined from
 4 the annual report of the panel for the years preceding the
 5 year of assessment, as to all claims closed since April 19,
 6 1977. The amount of the assessment for the group of all
 7 hospitals must be proportionately assessed against each
 8 hospital on the basis of each hospital's total number of
 9 licensed hospital beds, whether used or not, as reflected in
 10 the most recent compilation of the department of health and
 11 environmental sciences. The amount of the assessment for the
 12 group of all physicians must be equally assessed against all
 13 physicians. The amount of the assessment for the group of
 14 all dentists must be equally assessed against all dentists.
 15 The amount of the assessment for the group of all other
 16 health care facilities must be equally assessed against all
 17 other health care facilities. Surplus funds, if any, over
 18 and above the amount required for the annual administration
 19 of the chapter shall be retained by the director and used to
 20 finance the administration of this chapter in succeeding
 21 years, in which event the director shall reduce the annual
 22 assessment in subsequent years, commensurate with the proper
 23 administration of this chapter.

24 (3) The annual surcharge shall be paid on or before
 25 the date physicians' and dentists' annual registration or

1 renewal fees are due under 37-3-313 and 37-4-307. All unpaid
 2 assessments bear a late charge fee equal to the judgment
 3 rate of interest. The late charge fee is part of the annual
 4 surcharge. The director has the same powers and duties in
 5 connection with the collection of and failure to pay the
 6 annual surcharge as the department of commerce has under
 7 37-3-313 and 37-4-307 in connection with physicians' and
 8 dentists' annual registration or renewal fees."

9 Section 3. Section 27-6-302, MCA, is amended to read:
 10 "27-6-302. Contents of application -- waiver of
 11 confidentiality of medical and dental records. The
 12 application shall contain the following:

13 (1) a statement in reasonable detail of the elements
 14 of the health care provider's conduct which are believed to
 15 constitute a malpractice claim, the dates the conduct
 16 occurred, and the names and addresses of all physicians,
 17 dentists, and hospitals having contact with the claimant and
 18 all witnesses;

19 (2) a statement authorizing the panel to obtain access
 20 to all medical, dental, and hospital records and information
 21 pertaining to the claim and, for the purposes of its
 22 consideration of this matter only, waiving any privilege as
 23 to the contents of those records. Nothing in that statement
 24 may in any way be construed as waiving that privilege for
 25 any other purpose or in any other context, in or out of

1 court."

2 Section 4. Section 27-6-306, MCA, is amended to read:

3 "27-6-306. Health care provider's appearance and
4 answer -- waiver of confidentiality of records. (1) If a
5 health care provider involved chooses to retain legal
6 counsel, his attorney shall informally enter his appearance
7 with the director.

8 (2) The health care provider shall answer the
9 application for review and shall submit a statement
10 authorizing the panel to inspect all medical, dental, and
11 hospital records and information pertaining to the
12 application and, for the purposes of such inspection only,
13 waiving any privilege as to the contents of those records.
14 Nothing in the statement waives that privilege for any other
15 purpose."

16 SECTION 5. SECTION 27-6-307, MCA, IS AMENDED TO READ:

17 "27-6-307. Assistance to claimant in obtaining expert
18 consultation. The panel director shall cooperate fully with
19 the claimant in retaining, to consult with the claimant,
20 upon payment of a reasonable fee by the claimant, in claims
21 involving:

22 (1) a physician, a physician qualified in the field of
23 medicine involved, who will consult with the claimant upon
24 payment of a reasonable fee by the claimant; or

25 (2) a dentist, a dentist qualified in the field of

1 dentistry involved."

2 SECTION 6. SECTION 27-6-308, MCA, IS AMENDED TO READ:

3 "27-6-308. Director to furnish panel members with
4 documents. At least 10 days prior to the hearing, the
5 director shall furnish to each panel member copies of all
6 claims, briefs, medical or dental records, and other
7 documents the director considers necessary."

8 Section 7. Section 27-6-401, MCA, is amended to read:

9 "27-6-401. Composition of panel. (1) Those eligible to
10 sit on the panel are health care providers licensed pursuant
11 to Montana law and residing in Montana and the members of
12 the state bar of Montana. Six panel members shall sit in
13 review of each case. Three panel members who are physicians
14 and three panel members who are attorneys shall sit in
15 review of each case in which the claim is heard only against
16 one or more physicians. Three panel members who are dentists
17 and three panel members who are attorneys shall sit in
18 review of each case in which the claim is heard only against
19 one or more dentists. If the claim is heard only against one
20 or more health care facilities, two of the panel members
21 must be administrators of the same type of health care
22 facility or facilities, one panel member must be a
23 physician, and three panel members must be attorneys.

24 (2) In all other cases, two of the panel members must
25 be physicians, one panel member must be an administrator of

1 the same type of health care facility, and three panel
2 members must be attorneys, except that when a claim is heard
3 against a dentist, a dentist must be substituted for one of
4 the physicians on the panel."

5 NEW SECTION. Section 8. Applicability. This act
6 applies to malpractice claims occurring on or after the
7 effective date of this act.

-End-

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

March 9, 1987

The meeting of the Senate Public Health, Welfare and Safety Committee was called to order by Chairman Dorothy Eck on March 9, 1987, at 1 P.M. in Room 410 of the State Capitol.

ROLL CALL: All members of the committee were present.

CONSIDERATION OF H.B. 196: Rep. Joan Miles, District # 45, sponsor of H.B. 196, stated that the purpose of the bill is simply to extend the jurisdiction of the Medical-Legal Panel to include dentists. The Medical Legal Panel was created ten years ago to discourage legal suits that don't have merit. The dentists will fund their portion of the the review panel.

PROPOSERS: Roger Tippy, Montana Dental Association, stated that this is a simple bill to extend the jurisdiction of the Medical-Legal Panel and that it was drafted with the advice and consent of both doctors and dentists and the legal association.

John Ahlman, Sec.-Treas., Montana Dental Association, stated that he has followed the work of the Medical-Legal Panel in their settling of disputes, that he has surveyed 454 dental members in the state, and that the members are requesting that they be included under the jurisdiction of this panel.

DISCUSSION OF H.B. 196: Sen. Himsl: Does this panel include the denturists?

Mr. Tippy: No.

Sen. Himsl: Is the assessment made by the panel made to the Board of Dentistry?

Mr. Tippy: Each individual dentist would be assessed. Also, a board may license a number of professions but they are not always subject to the jurisdiction of the Medical-Legal Panel:

Rep. Miles closed by stating that this is a bill that the groups involved have cooperated on and all are agreed to; the dentists are also in agreement with the reasonable fee.

ACTION ON H.B. 196: Sen. McLane moved that H.B. 196 BE CONCURRED IN. The vote in favor was unanimous. Sen. McLane will carry the bill.

CONSIDERATION OF HOUSE BILL NO. 364: Rep. Dorothy Bradley, District # 79, sponsor of H.B. 364, stated that the purpose of the bill is to merge the Board of Dentistry with the Board of Dentistry. The bill comes to the legislature at the request of the legislative audit committee.

The bill removes one dentist from the board, reducing their number from five to four, while it adds one denturist to the board. The dentists are concerned about the loss of the one dentist because of the work that each often does in licensing new dentists.

The laws passed by the 1985 session as a result of the Dentistry initiative on the 1984 ballot state that the two boards will be merged if there are fewer than thirty licensed denturists in the state by 1987. At present, there are twelve to eighteen licensed denturists in the state, with only twelve in active practice. The likelihood that thirty denturists will be practicing in Montana seems unlikely.

ROLL CALL

Public Health, Welfare and Safety COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 3-9-87

NAME	PRESENT	ABSENT	EXCUSED
Dorothy Eck	X		
Bill Norman	X		
Bob Williams	X		
Darryl Meyer	X		
Eleanor Vaughn	X		
Tom Rasmussen	X		
Judy Jacobson	X		
Harry H. "Doc" McLane	X		
Matt Himsl	X		
Tom Hager	X		

Each day attach to minutes.

DATE _____

COMMITTEE ON

State Public Health

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

STANDING COMMITTEE REPORT

March 9,

19 87

MR. PRESIDENT

We, your committee on SENATE PUBLIC HEALTH, WELFARE AND SAFETY

having had under consideration HOUSE BILL No. 196

BLUE reading copy (THIRD)
color

EXTENDING JURISDICTION OF MEDICAL-LEGAL PANEL TO DENTISTS

MILES (RASMUSSEN)

Respectfully report as follows: That HOUSE BILL No. 196

BE CONCURRED IN

DO PASS

DO NOT PASS

DOROTHY ECK

Chairman.

HOUSE BILL NO. 196

INTRODUCED BY MILES, GOULD, DALY, BULGER

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXTEND THE JURISDICTION OF THE MONTANA MEDICAL LEGAL PANEL TO CLAIMS AGAINST DENTISTS; AMENDING SECTIONS 27-6-103, 27-6-206, 27-6-302, 27-6-306 THROUGH 27-6-308, AND 27-6-401, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 27-6-103, MCA, is amended to read:

"27-6-103. Definitions. As used in this chapter, the following definitions apply:

(1) "Dentist" means:

(a) for purposes of the assessment of the annual surcharge, an individual licensed to practice dentistry under the provisions of Title 37, chapter 4, who at the time of the assessment:

(i) has as his principal residence or place of dental practice the state of Montana;

(ii) is not employed full-time by any federal governmental agency or entity; and

(iii) is not fully retired from the practice of dentistry; or

(b) for all other purposes, a person licensed to

practice dentistry under the provisions of Title 37, chapter 4, who at the time of the occurrence of the incident giving rise to the claim:

(i) was an individual who had as his principal residence or place of dental practice the state of Montana and was not employed full-time by any federal governmental agency or entity; or

(ii) was a professional service corporation, partnership, or other business entity organized under the laws of any state to render dental services and whose shareholders, partners, or owners were individual dentists licensed to practice dentistry under the provisions of Title 37, chapter 4.

~~(1)~~(2) "Health care facility" means a facility (other than a university, college, or governmental infirmary) licensed as a health care facility under Title 50, chapter 5.

~~(2)~~(3) "Health care provider" means a physician, a dentist, or a health care facility.

~~(3)~~(4) "Hospital" means a hospital as defined in 50-5-101.

~~(4)~~(5) "Malpractice claim" means any claim or potential claim of a claimant against a health care provider for medical or dental treatment, lack of medical or dental treatment, or other alleged departure from accepted

standards of health care which proximately results in damage to the claimant, whether the claimant's claim or potential claim sounds in tort or contract, and includes but is not limited to allegations of battery or wrongful death.

{5}{6} "Panel" means the Montana medical legal panel provided for in 27-6-104.

{6}{7} "Physician" means:

(a) for purposes of the assessment of the annual surcharge, an individual licensed to practice medicine under the provisions of Title 37, chapter 3, who at the time of the assessment:

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(ii) is not employed full-time by any federal governmental agency or entity; and

(iii) is not fully retired from the practice of medicine; or

(b) for all other purposes, a person licensed to practice medicine under the provisions of Title 37, chapter 3, who at the time of the occurrence of the incident giving rise to the claim:

(i) was an individual who had as his principal residence or place of medical practice the state of Montana and was not employed full-time by any federal governmental agency or entity; or

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"27-6-206. Funding. (1) There is created a pretrial review fund to be administered by the director exclusively for the purposes stated in this chapter. The fund and any income from it shall be held in trust, deposited in an account, and invested and reinvested by the director with the prior approval of the director of the Montana medical association. The fund may not become a part of or revert to the general fund of this state but shall be open to auditing by the legislative auditor.

(2) To create the fund, an annual surcharge shall be levied on all health care providers. The amount of the assessment must be annually set by the director and must be apportioned among physicians, dentists, hospitals, and other health care providers by group. As to the group of all physicians, the group of all dentists, the group of all hospitals, and the group of all other health care facilities, the amount of the assessment must be proportionate to the respective percentage of total health

1 care providers brought before the panel that each group
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 4 the annual report of the panel for the years preceding the
 5 year of assessment, as to all claims closed since April 19,
 6 1977. The amount of the assessment for the group of all
 7 hospitals must be proportionately assessed against each
 8 hospital on the basis of each hospital's total number of
 9 licensed hospital beds, whether used or not, as reflected in
 10 the most recent compilation of the department of health and
 11 environmental sciences. The amount of the assessment for the
 12 group of all physicians must be equally assessed against all
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 14 all dentists must be equally assessed against all dentists.
 15 The amount of the assessment for the group of all other
 16 health care facilities must be equally assessed against all
 17 other health care facilities. Surplus funds, if any, over
 18 and above the amount required for the annual administration
 19 of the chapter shall be retained by the director and used to
 20 finance the administration of this chapter in succeeding
 21 years, in which event the director shall reduce the annual
 22 assessment in subsequent years, commensurate with the proper
 23 administration of this chapter.

24 (3) The annual surcharge shall be paid on or before
 25 the date physicians' and dentists' annual registration or

1 renewal fees are due under 37-3-313 and 37-4-307. All unpaid
 2 assessments bear a late charge fee equal to the judgment
 3 rate of interest. The late charge fee is part of the annual
 4 surcharge. The director has the same powers and duties in
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 8 dentists' annual registration or renewal fees."

9 Section 3. Section 27-6-302, MCA, is amended to read:
 10 "27-6-302. Contents of application -- waiver of
 11 confidentiality of medical and dental records. The
 12 application shall contain the following:

13 (1) a statement in reasonable detail of the elements
 14 of the health care provider's conduct which are believed to
 15 constitute a malpractice claim, the dates the conduct
 16 occurred, and the names and addresses of all physicians,
 17 dentists, and hospitals having contact with the claimant and
 18 all witnesses;

19 (2) a statement authorizing the panel to obtain access
 20 to all medical, dental, and hospital records and information
 21 pertaining to the claim and, for the purposes of its
 22 consideration of this matter only, waiving any privilege as
 23 to the contents of those records. Nothing in that statement
 24 may in any way be construed as waiving that privilege for
 25 any other purpose or in any other context, in or out of

1 court."

2 Section 4. Section 27-6-306, MCA, is amended to read:
3 "27-6-306. Health care provider's appearance and
4 answer -- waiver of confidentiality of records. (1) If a
5 health care provider involved chooses to retain legal
6 counsel, his attorney shall informally enter his appearance
7 with the director.

8 (2) The health care provider shall answer the
9 application for review and shall submit a statement
10 authorizing the panel to inspect all medical, dental, and
11 hospital records and information pertaining to the
12 application and, for the purposes of such inspection only,
13 waiving any privilege as to the contents of those records.
14 Nothing in the statement waives that privilege for any other
15 purpose."

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21 involving:

22 (1) a physician, a physician qualified in the field of
23 medicine involved, who will consult with the claimant upon
24 payment of a reasonable fee by the claimant; or

25 (2) a dentist, a dentist qualified in the field of

1 dentistry involved."

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4 documents. At least 10 days prior to the hearing, the
5 director shall furnish to each panel member copies of all
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9 "27-6-401. Composition of panel. (1) Those eligible to
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11 to Montana law and residing in Montana and the members of
12 the state bar of Montana. Six panel members shall sit in
13 review of each case. Three panel members who are physicians
14 and three panel members who are attorneys shall sit in
15 review of each case in which the claim is heard only against
16 one or more physicians. Three panel members who are dentists
17 and three panel members who are attorneys shall sit in
18 review of each case in which the claim is heard only against
19 one or more dentists. If the claim is heard only against one
20 or more health care facilities, two of the panel members
21 must be administrators of the same type of health care
22 facility or facilities, one panel member must be a
23 physician, and three panel members must be attorneys.

24 (2) In all other cases, two of the panel members must
25 be physicians, one panel member must be an administrator of

1 the same type of health care facility, and three panel
2 members must be attorneys, except that when a claim is heard
3 against a dentist, a dentist must be substituted for one of
4 the physicians on the panel."

5 NEW SECTION. Section 8. Applicability. This act
6 applies to malpractice claims occurring on or after the
7 effective date of this act.

-End-